

IMPLEMENTATION OF PRIORITY ACTIONS
Action Item 4: FEMA BiOp/NFIP/Floodplain Management

Prepared and Presented by: David St. John

Proposed Action

The Leadership Council supports the alignment of local floodplain programs with the National Marine Fisheries Service's Biological Opinion on the National Flood Insurance Program by the September 22, 2011 deadline as an important contribution toward Puget Sound recovery. The Leadership Council supports the implementation of the collaborative strategic plan to resolve issues that may impede timely alignment. The Leadership Council encourages a broader regional exploration of what is necessary, beyond an effective and timely response to the National Flood Insurance Program Biological Opinion, to manage floodplains such that they support the recovery of Puget Sound.

Anticipated Next Steps

Leadership Council approval of the proposed resolution would prompt two near-term Partnership actions:

1. Coordinate an initial discussion with the principals from key affected and interested parties, including the Federal Emergency Management Agency, the National Marine Fisheries Service, the Department of Ecology, and others, to focus implementation of the strategic plan; and
2. Initiate and participate in staff-level coordination, involving key affected and interested parties, to plan and implement the early 2011 issues workshop for practitioners

Background

The Federal Emergency Management Agency (FEMA) implements the National Flood Insurance Program (NFIP), which through the issuance of insurance influences the type and extent of development in floodplains. In late 2008, the National Marine Fisheries Service (NMFS) issued a Biological Opinion finding that the NFIP jeopardizes the existence of several Puget Sound species listed under the Endangered Species Act (ESA).

NMFS has identified seven actions for FEMA that would bring the NFIP into compliance with the ESA, the third of which calls for FEMA to modify its implementation of the NFIP minimum criteria to prevent and/or minimize the degradation of channel and floodplain habitat. NMFS has set a deadline of September 22, 2011 for work by FEMA and 122 communities in Puget Sound to implement this action.

The Proposed Action responds to several drivers including 1) the need for regional focus on key activities that will enable FEMA and Puget Sound communities to meet the September 2011 deadline; 2) requests from FEMA and NMFS to the Partnership to use its unique mission and tools to support outcomes from this work that will assist Puget Sound recovery; and 3) an opportunity to address Action Agenda priorities A – "Protect intact ecosystem processes, structures, and functions" – and D – "Work effectively and efficiently together on priority actions".

Feedback to FEMA, NMFS and PSP from affected and interested parties indicates that the issues that need immediate attention include, but may not be limited to:

- FEMA's approach to implementation of the Biological Opinion
- Clarification of the Bi-Op's Reasonable and Prudent Alternative (RPA) issues that exceed NFIP authority
- The implementation of RPA elements in urban and rural environments
- The applicability of Channel Migration Zones to the RPA and the state's involvement in that application
- Integration of Shoreline Master Program (SMP) and the Biological Opinion
- FEMA's Model Ordinance implementation and buffers
- "No Net Loss" vs. "Not Likely to Adverse Affect" standards
- The roles and responsibilities of FEMA, NMFS and NFIP communities in making effects determinations

Action Agenda Consistency

The proposed action relates to Action Agenda recommendation A.2.2.5:

"Work with FEMA and local governments to prevent further residential, commercial, and industrial development in floodplains. Evaluate the feasibility of assisting vulnerable communities in relocating away from floodplains."

The NFIP Biological Opinion was completed virtually at the same time as the Action Agenda was completed in late 2008, and thus many of the opportunities and challenges presented by the implementation of the Biological Opinion are not captured explicitly in the Action Agenda. The anticipated adaptation of the Action Agenda may reflect these opportunities and challenges.

Input from Partnership Boards

The ECB was briefed on this issue at their November 4, 2011 meeting. The purpose of the briefing was to get their feedback on the elements of the collaborative strategic plan at, or soon after, the meeting. At and after the meeting ECB members expressed interest in various aspects of the proposal, including:

- The importance of filling the void in communication about how Biological Opinion implementation will proceed under the extended deadline
- Adequate training for floodplain management staff at jurisdictions
- Better definition of the monitoring program that will support assessment of the effectiveness of the measures that are put in place in response to the Biological Opinion
- Clarification of the standards that FEMA will apply to assess whether submittals from jurisdictions meet the requirements expressed in the Biological Opinion, and the role of NMFS in establishing those standards and evaluating their application
- More direct engagement by FEMA in the Partnership's federal caucus and the work to recover Puget Sound
- An more direct working relationship between FEMA and the Puget Sound tribal community to address areas of concern regarding implementation of the Biological Opinion

The Science Panel has not been briefed on this issue.

Consequences of Delay

Work to implement the Biological Opinion will proceed as a staff-driven process, without perspective of the Leadership Council on the importance of achieving timely and effective outcomes that contribute to Puget Sound recovery. NMFS, FEMA and other parties will lose confidence in the ability of the Partnership to effectively deploy its unique capacity to encourage actions in support of Puget Sound recovery.

Attachments:

- Resolution 2010-07
- Matrix with highlights of proposed elements of collaborative strategic plan and suggested roles for the Partnership

Resolution 2010-07

Regarding Support for Timely Alignment of Floodplain Programs with the Biological Opinion for the National Flood Insurance Program in Puget Sound

WHEREAS, floodplains have historically and will for the foreseeable future provide a number of ecological services of high value to the social, economic and ecological health of Puget Sound; and

WHEREAS, the Partnership seeks to advance floodplain management decisions and actions that reflect the importance of floodplains to the achievement of Puget Sound recovery goals; and

WHEREAS, the Action Agenda recommends working directly with Federal Emergency Management Agency (FEMA) and local jurisdictions to address floodplain development issues that affect the regional effort to recover Puget Sound; and

WHEREAS, the FEMA implements the National Flood Insurance Program (NFIP), which through the issuance of insurance influences the type and extent of development in floodplains; and

WHEREAS, the National Marine Fisheries Service (NMFS) has issued a Biological Opinion finding that the NFIP jeopardizes the existence of several Puget Sound species listed under the Endangered Species Act; and

WHEREAS, NMFS has identified seven actions for FEMA that would bring the NFIP into compliance with the Endangered Species Act, the third of which calls for FEMA to modify its implementation of the NFIP minimum criteria to prevent and/or minimize the degradation of channel and floodplain habitat; and

WHEREAS, NMFS has set a deadline of September 22, 2011 for work by FEMA and 122 communities in Puget Sound to implement this action; and

WHEREAS, the timely alignment of local floodplain programs with NMFS' Biological Opinion will be one important contribution toward establishing conditions in floodplains that support the six goals for a recovered Puget Sound; and

WHEREAS, parties affected by and interested in the implications of the recommended modifications to the NFIP for their programs are seeking additional clarity and guidance regarding the substance and implementation of the modifications; and

WHEREAS, staff from FEMA, NMFS and the Partnership have identified the key issues needing resolution in order to facilitate timely programmatic alignment and developed a collaborative strategic plan to reach resolution of these issues.

NOW, THEREFORE BE IT RESOLVED, that the Leadership Council of the Puget Sound Partnership supports the alignment of local floodplain programs with the NMFS' Biological Opinion by the September 22, 2011 deadline as an important contribution toward Puget Sound recovery.

BE IT FURTHER RESOLVED, that the Leadership Council of the Puget Sound Partnership supports the implementation of the collaborative strategic plan to resolve issues that may impede timely alignment.

BE IT FURTHER RESOLVED, that the Leadership Council of the Puget Sound Partnership encourages a broader regional exploration of what is necessary, beyond an effective and timely response to the NFIP Biological Opinion, to manage floodplains such that they support the recovery of Puget Sound.

Resolution Moved By: _____

Resolution Seconded By: _____

Approved/Denied/Deferred (underline one)

DATE: November 19, 2010

Elements of Strategic Plan for Regional NFIP BiOp Response Through September 2011
Proposed Roles for the Puget Sound Partnership
DRAFT 11/12/10

Element	Objectives	Timeframe	Proposed PSP Role
1. Convene meeting(s) of principals from key parties	<ul style="list-style-type: none"> Focus the work on the objective of alignment with the BiOp by new 9/22/11 deadline; Commission coordination group; Serve as ultimate resolution venue for issues elevated by staff coordination group 	Conference call first meeting early December; Full group meeting as follow-up to workshop in February	LEAD/CONVENE ; Call and help implement the meeting(s); do necessary outreach to principals; message the importance of BiOp compliance to Puget Sound recovery
2. Implement staff-level coordination group	<ul style="list-style-type: none"> Provide the venue for effective engagement on priority issues; Plan and implement the workshop; Create and steer the work plan; Identify critical issues needing leadership decisions 	Blessed at the principals conference call meeting; convened first in December to focus on workshop	PARTICIPATE ; (regulators need to lead on technical substance)
3. Convene a two day issues workshop for practitioners	<ul style="list-style-type: none"> Share effective compliance approaches; Initiate resolution of key issues; Identify issues that need specific attention 	Late January 2011	PARTICIPATE in agenda development; LEAD agenda session on big picture of floodplain management and Puget Sound recovery; PROVIDE logistical support, handle invites, get facility; advertise event
4. Develop and confirm a work plan to address issues	<ul style="list-style-type: none"> Based on outcomes of the workshop, create prioritized work priorities focused on the overall objective 	Immediate follow-up to the workshop	PARTICIPATE ; identify opportunities in and limitations of BiOp implementation related to Puget Sound recovery

5. Implement short-term work efforts to achieve issue resolution	<ul style="list-style-type: none"> • Expedite issue resolution to support direct compliance action by communities 	Initiated February 2011; must be complete by end of June 2011, to allow inputs to work by communities	PARTICIPATE as technical capacity warrants and allows
6. Report on status of work plan implementation	<ul style="list-style-type: none"> • Identify effective and ineffective elements of the work plan; • Make work plan adjustments as necessary 	April and June 2011	PARTICIPATE ; review and evaluate results for alignment with Puget Sound recovery
7. Completion of compliance actions aligning with the BiOp	<ul style="list-style-type: none"> • Identify and implement necessary program changes to align with the BiOp 	Ongoing, with added emphasis after the 2011 workshop (element #3)	MONITOR through participation in coordination group and status reports
8. Report on status of BiOp compliance rate by deadline	<ul style="list-style-type: none"> • Highlight successes; • Identify and prioritize issues limiting full compliance 	September 2011	REVIEW/EVALUATE ; identify additional actions needed to align floodplain management with Puget Sound recovery; help identify resource needs for long term effectiveness